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Regional Preparatory Meeting on the
2000 Review of Implementation of the
Beijing Platform for Action
19-21 January 2000

PROVISIONAL AGENDA

1. Opening session

2. Election of officers

3. Adoption of the agenda

4. Women and the economy

5. Women and violence
   (a) Trafficking in women
   (b) Violence against women in war/conflict situation

6. Women in power and decision-making

7. Institutional mechanisms for the advancement of women

8. Adoption of the report and the agreed conclusions and recommendations

GE.99-24281

PROGRAMME OF THE MEETING

Wednesday, 19 January

10 a.m. - 11 a.m.

Item 1 Opening session
Address by the ECE Executive Secretary and heads of delegations of the partner institutions

Item 2 Election of officers

Item 3 Adoption of the agenda and organization of work

11 a.m. - 1 p.m.

Item 4 Women and the economy

3 p.m. - 6 p.m.

Item 4 (continued)

Thursday, 20 January

10 a.m. - 12 p.m.

Item 5 Women and violence
(a) Trafficking in women

12p.m. - 1 p.m.

Item 5 Women and violence
(b) Violence against women in war/conflict situations

3 p.m. - 4 p.m.

Item 5(b) (continued)

4 p.m.- 6 p.m.

Item 6 Women in power and decision-making

Friday, 21 January

10 a.m. - 1 p.m.

Item 7 Institutional mechanisms for the advancement of women

4 p.m. - 6 p.m.

Item 8 Adoption of the agreed conclusions and recommendations
Closing session

UNITED
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Economic and Social
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9 December 1999

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Regional Preparatory Meeting on the
2000 Review of Implementation of the
Beijing Platform for Action
19-21 January 2000

WOMEN AND THE ECONOMY IN THE ECE REGION

Note by the ECE secretariat */

I. INTRODUCTION

1. Since the Beijing conference, countries in the ECE region have made some progress in meeting the strategic objectives of the Platform for Action in the area of "Women and the economy". Economic growth contributed to a further increase in female participation in the labour market, including through the rise of self-employment and entrepreneurship. Women have become better educated and for some career opportunities have substantially improved. New legislation aimed at promoting gender equality has been introduced and gender awareness has increased in a number of countries. Progress has been uneven by area, however, and has differed between countries. It was not matched by significant changes in attitudes and practices in key areas of concern.

2. The review of implementation of the Beijing commitments takes place in a context of increasingly global markets. Vulnerability to external shocks and constraints on welfare systems, the persistence of unemployment and the high

*/ Ms. E. Ruminska-Zimny was the consultant to the secretariat for this note.

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costs of the transition process have had a negative impact on men and women. However, women have been more affected due to their generally weaker position on the labour market. Gender equality is a matter of implementing women's rights and gender equality is increasingly looked at as an end in itself (United Nations 1999). But for countries within the ECE region it has also become a means of economic development against a background of high participation of women in the labour force and the fact that the gender perspective is crucial for social adjustment to the emerging global economy.

3. This paper evaluates trends in the situation of women on the labour market in relation to the strategic objectives of the Platform for Action. It focuses on key areas of concern to countries within the ECE region: discrimination against women on the labour market, employability and social protection. Within each area, new initiatives and good practice cases are identified to indicate avenues for future action.

II. TRENDS IN WOMEN'S EMPLOYMENT

4. During the 1990s, the economic activity and employment of women continued to increase in North America and Western Europe, while in transition countries women's presence in the labour market declined. The difference in employment trends certainly reflected different growth patterns. Most Western economies enjoyed steady growth, but transition countries went through a post-1989 recession and many still have negative growth rates. Economic restructuring was another factor, which had a negative impact on women's employment in transition countries. However, women's job losses in those countries were also explained by policies.

(a) North America and Western Europe

5. Women's paid work played an important role in sustaining economic growth in Western Europe and North America during the 1990s. The rise of female employment contributed to growth also through the increase in demand, and thus job creation. A large part of the new demand was in services, which were previously provided by female unpaid labour within a household, such as cleaning, cooking and care of children and the elderly, resulting in monetization of the "care" economy.

6. Between 1991 and 1996 female activity rates increased in 18 out of 24 Western countries within the ECE region, while men's rates declined or remained stable. The good economic performance of the United States economy created favourable conditions for female employment. Its level is now, together with that of Scandinavian countries, among the highest in Western countries. Female employment rose fast in Western Europe also. Since 1994, women have accounted for 2.6 million (62%) of the net increase in jobs in the

European Union (EU). Except in Denmark and the Netherlands, the increase was most spectacular in countries where women had relatively low levels of economic activity such as in Greece, Ireland, Spain and Switzerland. Women's share in the labour force further increased, though women still did not achieve parity with men. Only in Sweden, and to a lesser extent in Finland, are the participation rates of men and women roughly the same.

7. Women have greatly expanded the numbers of the active population and at the same time improved its quality. In education they have caught up with, and sometimes even overtaken men. In the EU in 1994/95 there were 102 women per 100 men in upper secondary education compared with 93 in the early 1980s. In tertiary education the increase was even greater, rising from 79 to 103 (EUROSTAT/OECD/UNESCO database). The attachment of women to the labour market through their life cycle is now similar to that of men. They do not leave the labour market at the age of around 30 (because of marriage and childbirth) and there is no increase in activity rates in later years when the children grow up.

8. Continued feminization of the labour force is explained by demographic and structural factors. The ageing of Western societies made women the main source of new labour. Within the EU, the increase of 1.2 million in the active population between 1991 and 1996 was entirely due to an influx of 2.4 million women, as the number of men in the labour force declined by 1.2 million (EUROSTAT database). The expansion of service sector jobs and greater demand for flexible employment, which were behind the feminization of employment in the 1980s, continued to play a role also during the 1990s. Women also became more motivated to look for full-time jobs (d'Intignano 1999).

9. Women will remain an important source of new labour. According to ILO projections, between 1995 and 2010 female activity rates will increase in most countries in Western Europe and male rates will decline. In France, female participation rates will increase from 59.9 to 62.6% while male rates will decline from 75.4 to 73.1%. A similar pattern of changes is expected in Austria, Canada, Germany, the Netherlands and the United States. The sharpest increase in female activity rates is expected in countries of Southern Europe, such as Greece and Italy.

(b) Eastern Europe and the Commonwealth of Independent States (CIS)

10. Trends in Eastern Europe and in the CIS contrasted with those in Western countries as well as with past trends. Women's position in the labour force was traditionally strong under the pre-1989 full employment policy. By the mid-1980s, women were in a majority in the labour force of the Baltic States and the Russian Soviet Republic and their share in East European countries, though smaller (46-48%), was still high by Western standards.

11. During transition, the situation on the labour market has radically changed. Economic recession, the closure of plants, restructuring and the financial squeeze have resulted in job cuts. These cuts affected women more than men. The female labour force and employment shrank in all eight countries for which there are data. Between 1985 and 1997, the female labour force in Hungary fell by over one third and in Latvia by nearly one fourth. It declined even in those countries where the male labour force remained stable, such as in Estonia and Poland, or even where it increased, as in the Czech Republic, Lithuania and the Russian Federation. Not only did the proportion of women in the labour force fall, but so did their share in employment. The largest cut in female employment, by 40%, was in Hungary. Even the smallest cut in female employment (the Czech Republic), was still nearly 10 times larger than for male employment. Only in one country – Slovenia - were employment cuts similar for men and women (Annex II, Table 1).

12. In all countries female economic activity is now lower than in 1985 and the decline in activity rates has been steeper than for men. The largest fall in female economic activity was observed in Hungary and Latvia between 1985 and 1997: from 61% to 43% and from 68% to 54% respectively (see Table 2). However, while in Hungary the decline in female activity was accompanied by a fall in the men's rate, in Latvia the male rate remained at pre-transition level. While a similar pattern of gender bias is seen in Estonia and Lithuania, the Baltic States have the highest levels of female economic activity (54-58%), and Hungary the lowest (UN/ECE 1999).

13. The decline of the female labour force was primarily due to the fall in activity rates, which was related to the pattern of structural changes and labour market policies. Women were hurt more than men by employment cuts in agriculture and industry. And their share in total employment in agriculture and industry declined, with few exceptions. Female jobs cuts in industry were related to the restructuring of light industries, such as textiles, which lost state support already in the early phase of transition (as opposed to male-dominated heavy industry) and the shedding of clerical positions in industrial enterprises (Nesporova 1999, Paukert 1995).

14. Job losses in industry and agriculture were not offset by an increase in the share of female employment in services. Except in Estonia and Slovakia, women's share in total employment in services declined, by as much as 5 percentage points in Lithuania, for example, and at best remained unchanged, as in Romania and Slovenia. Women were affected by large cuts in the feminized public sector service jobs and lost jobs in transport and communication. This was not balanced by any meaningful increase in women's employment in expanding market-related services, such as banking, insurance and business services.

15. The deterioration in the position of women in the labour market is also explained by labour market policies, which reflected the traditional male breadwinner approach. Women's withdrawal from the labour force was seen as a remedy for massive male unemployment and cuts in childcare provided by the state. Women were encouraged to leave the labour market through early retirement policies (the Czech Republic and Poland) and more attractive parental leave schemes (Belarus and Ukraine). Other factors, such as demographic concerns related to the sharp decline in fertility, also played a role, as did the re-emergence of the old attitude, in some circles, that women should return to their "predestined" place (Ruminska-Zimny 1995).

16. Many women found their paid work uneconomical due to cuts in real wages and the rising cost of childcare. Full-time homemaking may also have appealed to women, who remembered the difficulties of combining a full-time job with family responsibilities in the past. The sharp decline in wages and family incomes during the 1990s pushed women back into the labour market. Their wage was necessary to balance the family budget. In many countries even double-income families, especially those with a low level of education and with more than one child, fell below the poverty line, for example in the Russian Federation, Ukraine and many other CIS countries. Paternalistic tendencies in labour market policies simply mean that women have to accept poorly paid jobs in the informal sector.

III. KEY AREAS OF CONCERN

17. Trends in labour market participation, generally favourable in Western countries and unfavourable in transition countries, show only part of the picture. The evaluation of equal access to employment - a major component of women's economic and social rights - requires also qualitative analysis. Female employment expanded because women accepted lowly jobs, often beyond the reach of labour market legislation and social protection. These jobs are poorly paid, insecure and have high safety and health hazards. Women continued to be among the first to be dismissed and the last to be hired (Lim 1999). In transition countries, women became more vulnerable than men under the conditions of competition and the new labour market environment.

18. Three areas of concern emerge from a qualitative analysis of female employment in the ECE countries -problems related to discrimination against women on the labour market, employability and social protection.

A. Discrimination against women on the labour market

19. Discrimination against women on the labour market results in unequal access to employment. It is reflected by discriminatory practices, the wage

gap, persistent segregation of female jobs at the lower end of the labour market and the gender gap in unemployment.

(a) Discriminatory practices

20. Discriminatory practices are seen in all countries within the ECE region. This is due not only to gaps in legislation and the lack of law enforcement, but also to de facto discrimination in hiring, employment, career advancement, dismissal and wages, which is often difficult to pinpoint. The main source of information on discriminatory practices are labour market surveys, which are performed at irregular basis and their quality varies. Also many aspects of discriminatory practices of employers are difficult to quantify.

21. Discriminatory practices are more common in the private sector. This trend has been seen clearly in the transition economies, where privatization opened the way to new forms of discrimination. True, the emergence of private enterprises created many jobs for women. But female employment is often seen as a way to cut operating costs. Women most often find low-level, labour-intensive and lowly paid jobs in small firms, partly in the "grey economy", while men get better paid managerial positions in larger companies. Private employers tend to offer only short-term contracts or casual work to women to avoid any costs which might arise from maternity and childcare. Older women, and women with small children, have difficulty in finding a job in the private sector (Lisowska 1999).

22. The reasons for discriminatory practices in hiring are similar in most countries. These are claims that women are less available to work under pressure and for the longer hours required by many firms in the private sector, and that they cost more because of maternity and child benefits. This is very relevant to transition countries (Fong 1996). In terms of the welfare code women appear as overpriced because these benefits formally remain in the statutes, even though they are no longer observed (Einhorn 1994). This puts them at a double disadvantage. Working mothers are less competitive on the labour market, and, at the same time, do not benefit from social protection. This may explain the rising age of marriage and childbirth in many countries of Eastern Europe and the CIS.

23. Finally, migrant women workers are particularly subject to discriminatory practices. The casualization of labour markets favours the employment of migrant women, who submit more readily to substandard working conditions. The widely spread undocumented migration increases this vulnerability and exposure (see Annex I).

24. The gender gap in wages is another form of discrimination against women on the labour market. This gap exists in all ECE countries, despite some

progress in women's access to well paid jobs in Western countries, especially in the United States. The success was, however, achieved only by a small group of well educated women at the top of the labour market. Climbing the ladder, most women still bang their heads against the so-called glass ceiling. The government-financed Glass Ceiling Commission in the United States estimated that in 1995 women held only about 5% of senior executive positions. Many women at the top do not feel comfortable with their success. More often than men, they forsake corporate careers and move to smaller firms or start their own businesses. Several surveys have confirmed the fact that sex discrimination played a part in explaining this entrepreneurial boom (Economist, 10.8.96).

25. The wage gap is a result of the concentration of female jobs at the lower end of the labour market and de facto discrimination through lower pay for work of equal value. Data from the 1995 European Household Panel Survey show that women's hourly wages are, on average, 76% of men's, representing a wage gap of 24% (15% after adjustment for the structure of female employment). Though educational qualifications help in reducing the wage gap, in many countries most progress was made in clerical jobs and for elementary occupations. In Finland, France and Sweden, but also in the United Kingdom, women in clerical positions have wages only 3-8% less than men. The gap for female professionals is the largest (EUROSTAT 1999; EU 1999).

26. Women in Eastern Europe and in the CIS had wages 20-25% lower than men, but prior to 1989 this gap was not very big in real terms due to the flat wage structure. During the transition, the wage structure diversified driven by the increase in rewards for education. Women, with a traditionally good education and broader education profile, as compared to men's vocational training in heavy industries, could expect that the wage gap would gradually close. So far, the opposite trend has been seen in many countries. In the Russian Federation in 1997, women's wages were estimated at only about 55% of male wages, as compared with about 70% in 1989. This is partly explained by the growing wage differentiation in favour of male-dominated industries and the poorer job opportunities in the private sector.

27. The widening of the wage gap in transition countries is of special concern against the background of the steep decline in real wages which, in many countries such as the Russian Federation and most other CIS countries, as well as Bulgaria and Lithuania, are only 40-50% of the 1989 level. The wage decline, combined with the generally lower level of female wages at the beginning of the transition process, makes women vulnerable to the risk of poverty. Between 1992 and 1997, the poverty rate among females (aged 31-54) in the Russian Federation more than doubled, from 9 to 22% (UNDP 1999).

New initiatives and good practice to eliminate discrimination **/

28. Measures to eliminate discrimination against women on the labour market range from awareness-raising to the revision and enforcement of the existing legislation and employment practices. Many of these measures arise from the equal opportunity policies of the 1990s, which are most advanced in the Scandinavian countries. In Sweden, the Equal Status Act has stipulated since 1992 that all enterprises with more than 10 employees must prepare equal opportunity action plans, which included wage equality. In Canada, according to the new Employment Equity Act, companies doing business with the Federal Government have to achieve and maintain a representative workforce through the implementation of employment equity plans.

29. Recent initiatives aimed at eliminating discrimination include a constitutional reform on equality (France); new regulations and supportive action within targeted programmes, such as that on "Women and work" (Germany); amendment of the Equal Treatment Act to enforce mandatory equal treatment and to develop non-discriminatory job evaluation models (Austria); a review by social partners of systems of job classification, if they cause inequality (Belgium) and a special provision in collective bargaining agreements to assess job demands in individual enterprises and sectors from the point of view of lowly paid jobs for females (Finland). Other measures include training on equal treatment legislation for social partners and publishing a practical guide on equal pay for enterprises (France). Transition countries also, such as Croatia and Hungary, have recognized the need to promote the economic rights of women, including access to employment.

30. Addressing de facto discrimination on the labour market embodies also proposals, advanced especially by non-governmental organizations (NGOs), to shift the burden of proof to the employer (German Women's Council). The employer should have a legal obligation to disclose all reasons for a decision to hire or dismiss employees and, in case of proven discrimination, provide some form of indemnity.

(b) Labour market segregation

31. Gender segregation on the labour market remains strong in all countries of the ECE region. Female jobs are segregated both horizontally, that is

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**/ New initiatives and good practice cases are based on the national responses to the Division for the Advancement of Women questionnaire which were available at the time of writing. In view of this and the limited space available, presentation of good practices does not pretend to cover all the major steps taken by ECE countries to increase gender equality in the economy.

across sectors and occupations, and vertically, that is by the position within the labour market hierarchy. Women dominate in caring professions and in low-level clerical positions.

32. In the EU, an index of segregation among occupations, both horizontal and vertical, shows that three countries (Denmark, Finland and Sweden) with relatively high female employment also have relatively highly segregated occupational structures. The opposite is true for countries with lower female employment, except Spain. This suggests that a high demand for female labour comes at a price of unequal access to jobs in terms of position in the hierarchy and occupations (EU 1999).

33. The growing role of the service sector in employment prompts a closer look at that sector in evaluating horizontal segregation. The share of services in total employment, already high in Western countries (over 70% in the Netherlands, Sweden and United Kingdom (EUROSTAT LFS 1996) has increased to 50% or more in many transition countries also (UN/ECE 1998). Trends towards a more mixed labour force in services are seen in all countries. In that context the most important factor, which determines sectoral segregation, is not whether women will move into male-dominated sectors, such as manufacturing, but what is women's position in the service sector.

34. In many countries, a more mixed labour force hides the emergence or reinforcement of occupational segregation. This is the case of transition countries where women are being pushed out of what are now better paid jobs in financial services and moved into public service jobs such as health and education. Financial services, which were feminized and underpaid in the past as compared to male-dominated heavy industry. have been "catching up" in the process of market building: job opportunities have expanded and wages increased. The opposite was true for education and health services (Tables 3 and 4).

New initiatives and good practice to reduce segregation

35. The aim of reducing excessive segregation in the labour market has become the major policy objective in a number of Western countries. Measures to combat segregation focus on the supply of female labour to sectors or occupations that are male dominated but also on increasing the demand for women in the respective sectors and occupations. Practical measures include diversification of education, training, and occupational choices (France, Spain, Sweden, United Kingdom). Bottleneck occupations are also targeted and women applying for occupations where they are under-represented are offered support such as pre-training and flexible childcare (Belgium). The public sector is used in some countries to set a good example in promoting women to management positions (France).

(c) Female unemployment

36. Female unemployment is higher than that of males in many countries of the ECE region (Annex II, Figure 1). In Western as well as in transition countries, national policies, the unemployment benefit system and cultural differences are important factors in explaining female unemployment. In the European Union, female unemployment rates are higher than male rates in 13 out of the 15 member States. In 1996 in the EU as a whole, the female unemployment rate was over 12% while the male rate was below 10% (EUROSTAT 1998). The unemployment gender-gap is especially large in Belgium, Denmark, Greece, Italy, Luxembourg, the Netherlands and Spain. Only in Sweden and the United Kingdom is female unemployment lower than male. Three countries - Germany, Greece and Ireland - have succeeded in reducing the unemployment gap.

37. In transition countries, the pattern is less consistent. In 1997 only in 5 out of 11 transition countries reviewed in the Economic Survey of Europe were female unemployment rates higher than men's (UN/ECE 1999). Female unemployment rates are lower than men's in Hungary, Latvia, the Russian Federation and Slovenia (but higher in the Czech Republic, Poland and Romania (Figure 1). Female unemployment in transition countries is probably higher than official data reveal. Women tend to register less frequently than men as unemployed, especially when unemployment benefits are low, as in Latvia and the Russian Federation. They also often choose extended maternity or parental leave as an alternative to unemployment, especially in countries where these benefits are relatively generous, as in Hungary. But the most important aspect is that, in the context of a large decline in female activity rates, relatively low unemployment rates simply reflect a massive withdrawal of women from the formal labour market.

New initiatives and good practice to lower unemployment

38. Most Western countries tackle the problem of female unemployment through overall labour market policies. Some countries do, however, develop schemes targeting female unemployment. Recently, five out of 15 EU countries adopted the specific objective of lowering female unemployment (Austria, France, Greece, Luxembourg and Spain). Specific measures to reduce female unemployment are linked with policies aimed at facilitating re-entry into the labour market and these policies often target single parents. In some transition countries, governments established special agencies to provide training and job counselling for unemployed women (e.g. Agency for the Promotion of Professional Employment, in Poland).

39. Non-governmental organizations play an important role in combating female unemployment. This is especially true for transition countries. NGOs have a diversified profile (foundations, professional organizations) and scope of

activities. They aim at helping women to adjust to new conditions on the labour market by providing advice on their rights when women are dismissed, information on opportunities in the local labour market, and practical help in looking for a new job (filling in job applications, attending interviews). Many NGOs gather evidence of discriminatory practices, prepare analyses and monitor changes in women's position in the labour market. This material is then used to conduct media campaigns and lobby for changes in the existing legislation or for new regulations. NGOs are most active in central European countries, such as Poland and Hungary. The role of NGOs has been growing rapidly also in the Baltic States, in the Russian Federation and in most other CIS countries. Many successful NGOs draw on financial and organizational support from Western NGOs and international organizations. For example, UNIFEM is undertaking projects in Bulgaria, Poland and Kazakhstan in order to assess employment opportunities for women and raise the awareness of policy makers, NGOs and the private sector of the training needs of the female labour force.

B. Employability

40. The main areas of concern regarding women's employability include access to education and life-long learning, care problems, atypical jobs and access to self-employment and entrepreneurship.

(a) Access to education and life-long learning

41. Education plays a key role in determining employability. From a gender perspective, two issues are important: first, women's access to a "male" education profile, which includes mathematics and computer science, and second, women's access to life-long learning.

42. Though women in ECE countries are now better educated than a decade ago, their education profile remains "female". In most countries women are in a majority among university graduates. Only in some countries is their share in commerce, law, mathematics and computer sciences close to men's share. Women continue to choose a "female" education profile, which locks them into "female" segments of the labour market. Among university graduates, they still dominate in the arts and humanities, social services and medical studies. In the EU and Canada, women's share in engineering, mathematics and computer sciences is only around 27%. Occupational segregation and wage levels are related to the profile of female education, especially at university level.

43. Inadequate access to life-long learning is another factor which affects women's employability. The global market requires frequent adjustment of skills and knowledge to the changing demand under the influence of competition and evolving information technologies. This type of learning is most often provided by employers, including through on-the-job training. The most

important barrier to life-long learning is related to constraints on women's time which is limited by caring functions.

44. The time constraint is a major handicap for lone mothers whose number is on the rise in all ECE countries due to the change in marriage and birth patterns. Births outside marriage constitute about 50% of all births in most Scandinavian countries and in Estonia, and about one third of all births in Finland, United Kingdom, United States and several transition countries such as Bulgaria, Georgia and Slovenia (UN/ECE 1999). Though in many countries, especially in Scandinavia, because of cohabitation, births outside marriage do not necessarily mean single parenthood, there is a clear upward trend in lone motherhood, which greatly increases the risk of poverty due to lower employability and lower-end jobs. Poverty rates among single females with children is very high in the Russian Federation and other CIS countries but is also high in countries such as Canada and Germany (around 40%) as well as the United Kingdom (30%). In France, Italy, the Netherlands and Spain, rates are lower but still considerable (around 20%) (Luxembourg Income Study database).

45. The situation of lone mothers depends on their situation in the labour market and the extent of state support. In Germany, the Netherlands and the United Kingdom, the participation of lone mothers in the labour market is low, around 40%, while in the United States it is 60%. This contrasts with France, where over 80% of lone mothers are economically active, and Belgium, Denmark and Italy, where the rate is around 70%. At the same time, the types of employment of lone mothers vary substantially. While in Denmark and France they most often have full-time jobs, in the Netherlands and the United Kingdom lone mothers usually work part time (Bradshaw 1996).

New initiatives and good practice to improve access to education

46. The Canadian Opportunities Strategy (which was contained in the 1998 budget), embodies measures such as childcare expense deductions and education tax credits for part-time students, many of whom are women. A number of countries focus on improved access to education for lone mothers and women on low incomes. Some countries have developed special training programmes within broader schemes aimed at assisting those women to re-enter the labour force (Germany, Spain, United Kingdom). This avenue is considered more promising than income support measures. Also, NGOs in many countries aim at improving women's access to learning by offering training courses, for example in computing and languages, at which women can upgrade or acquire skills.

(b) <u>The care problem</u>

47. During the 1990s, the imbalance between the supply and demand for care has worsened. Globalization and the pressure of competition but also

demographic trends increased the demand for care, including that for the aged. At the same time, the supply of care from the state, the private sector and the family decreased. Care within the family declined due to women's increased participation in the labour market. Caring needs personal attention and time, as it is usually directed at people who cannot clearly express their needs, such as young children, the sick and the elderly (Folbre 1999; Budget and Folbre 1999). The problem of care is one of the major barriers to women's employability.

48. Motherhood accounts for a large part of the care provided by women and reduces women's employability. However, fatherhood does not reduce men's employability. The employment situation of women with children differs by country, however, and depends on family and labour market policies. The availability and affordability of childcare and the provisions for temporary withdrawal from the labour market (parental leave) are two factors which have the greatest effect on a woman's choice to stop paid work. In all countries, participation in the labour market drops with an increase in the number of children, but levels of participation vary greatly from one country to another (Table 5).

49. In Western countries, four groups of countries may be distinguished from the point of view of the policy and institutional framework which enables women to reconcile paid work with childcare (OECD 1999): (i) countries with a high level of childcare services, where having children does not influence the mother's activity rate, such as Finland and other Scandinavian countries; (ii) countries in which having children has a minimal impact on female employment until the third child, as in France; (iii) countries in which women's activity drops already with the birth of the first child, as in Ireland and the Netherlands; (iv) countries in which the difficulties of combining a career and family life lead to part-time work, as in Germany and the United Kingdom.

50. Expenditure on family services is small in Western countries, except in Scandinavia. In the EU countries, the share of children benefiting from public childcare varies from 48% of children aged 0-3 in Denmark to 2% in Germany, Ireland, Spain and the United Kingdom (Table 6). But childcare is supported in many ways, including through fiscal policies, as in France (OECD 1999). Also child-related leave, maternity leave and in particular parental leave vary in terms of general regulations, criteria for entitlement, length of leave and level of compensation. Maternity leave is not mandatory in the United States and covers only about 25% of working women. Within the EU countries, there are large differences in the duration of maternal and parental leave (Table 6). In many countries, parental leave is accorded either low or no compensation. In countries such as Ireland and the United Kingdom, entitlements to parental leave are limited to those around birth. Many

working mothers are deprived of child-related leave because they work in the grey economy, are self-employed or have atypical jobs.

51. In countries of Eastern Europe and the CIS, the family support system weakened substantially during the transition. In the past, this system was part of the labour code and enabled women to raise a family while working full time. After 1989, women lost de facto many benefits. Decentralization and the transfer of enterprise-managed childcare facilities to municipalities cut many services, especially in rural communities and in small towns. Kindergarten enrolment declined in all countries, but especially in the Russian Federation and some other former Soviet republics. Though some countries, such as Belarus and Lithuania, increased the length of maternal and parental leave, the value of compensation declined. Between 1991 and 1995, parental leave benefits in Lithuania declined from 40% to 13% of the average wage. The decline was much larger in absolute terms, considering that in 1995 the wage level in Lithuania represented only 36% of the 1989 average wage (UNICEF 1996 and 1997).

New initiatives and good practice in care provision

52. Measures to provide more care focus largely on childcare. Among the EU members, five intend to increase care for the elderly and two for other dependents. Some countries, however, such as Canada, have devised tax concessions for the provision of care to family members who are seniors or who have disabilities (tax credit on related expenses) and recently introduced a new caregiver credit to provide tax assistance for individuals residing with and providing in-home care for a low-income parent, grandparent or infirm dependent relative.

53. New initiatives in childcare concentrate on measures which enable both parents to work. Scandinavian countries have traditionally favoured such solutions, of which children's day care networks are part. Recently, some countries have launched programmes to extend these networks (e.g. Finland). The national government sets the framework and municipalities implement provisions. The programme is to be financed by local authorities and by the State. All children under the age of 7 years have the right to full-time, municipal childcare, but charges linked to the parents' income are payable. Other types of measures include the introduction or development of the system of parental leave. Countries with generous parental leave schemes focus on increasing the use of parental leave by men, for example by reserving one month for fathers (Sweden).

(c) Atypical working arrangements

54. Atypical working arrangements include fixed-term contracts, part-time work, a wider range of working hours and teleworking. These types of work are expanding rapidly in countries of the ECE region. Women are over-represented in this segment of the labour market, as compared to the full-time job market.

55. During the 1990s, women's share in part-time employment increased further in many countries such as Austria, Belgium, France and Spain, as well as Canada and the United States (Figure 2). The increase in female part-time employment occurred also in countries where women already had a large share of this type of employment, such as the Netherlands (almost 70% share of total employment), Switzerland (over 50%) and Turkey (almost 40%).

56. In transition countries, it is still difficult to establish a trend and a gender pattern for atypical jobs. In the past, these jobs were marginal because people had full-time permanent jobs. In 1989, atypical jobs started to emerge along with the upsurge of the private sector, enterprise restructuring and expansion of the parallel economy. The share of part-time employment is relatively low - around 10% of total employment. In some countries, such as the Czech Republic, Hungary and, to a lesser degree, Poland, women already have a higher share in part-time employment than men.

57. Many women are interested in atypical working arrangements because of their flexibility, which helps to reconcile paid work with bringing up a family. Almost 70% of women working part-time in the EU declare that they do not want full-time jobs (EUROSTAT LFS 1996). Also, some of these jobs are prestigious and well paid, such as free-lance journalists, part-time lawyers or business consultants. However, the great majority of atypical jobs have the following disadvantages as compared to full-time jobs:

- Lack of and/or limited rights to the social protection and benefits which come with full-time jobs, such as unemployment benefits, maternity leave, paid vacations and pensions;
- Lower wages - atypical jobs are usually paid much less than full-time jobs. In the EU, the average gross hourly earnings of part-time workers are far lower than those of full-time workers in all countries. The difference is greatest in France, Luxembourg, the Netherlands, Spain and, above all, the United Kingdom, where part-time workers earn less than 60% of the full-time wage (EUROSTAT 1998);
- Lack of or very limited freedom to move between atypical and full-time jobs. Over 40% of women in Finland declare that they work part-time because they can not find full-time jobs. The corresponding proportion in France, Italy and Sweden is around 30% and in Belgium, Ireland and Spain around 20% (EUROSTAT LFS 1996);

- Lack of career prospects – atypical jobs are for many women a dead end, offering no chance of improving their skills, position and remuneration. These jobs usually require only minimal qualifications and are mostly in low-pay occupations, such as office cleaner or waitress.

58. These drawbacks are considerable also in transition countries. In countries of Eastern Europe and especially the CIS, there are so far no or very limited institutional regulations on atypical employment. Most jobs are created in the grey or black economy. This leaves the way open to abuse in terms of wage level, safety and working conditions and social benefits. Atypical jobs are usually low-skilled and lowly paid. In Poland, over half of all those employed in the grey economy work in agriculture (25%) and construction (26%) (GUS 1996). With the likelihood of further feminization of atypical jobs, the question of regulating this market segment is of key concern to women in transition countries.

New initiatives and good practice in atypical employment

59. Cooperation between the state, employers and labour unions is required to establish good practices in relation to atypical jobs. One of the most important problems is to give women more choice in moving between full-time and part-time jobs without losing the benefits associated with full-time employment. The introduction of similar arrangements is being considered by Denmark and the Netherlands.

60. The introduction of measures to ensure adequate working conditions and protection of women under atypical work contracts is another avenue for action. The ILO Part-time Work Convention (1994) and the Home Work Convention (1996), as well as codes of good practice, should be of importance in adopting practical solutions in this area.

(d) Self-employment and entrepreneurship

61. Self-employment and entrepreneurhip provide an important avenue to improve the quality of women's jobs, opening the way to top management positions, higher incomes and access to non-female sectors of activity. During the 1990s, female entrepreneurship has been a dynamic source of growth in all countries of the ECE region. It is estimated that in 1997 there were 8.5 million women-owned businesses, accounting for one third of all businesses in the United States and employing one out of four workers. A similar trend is seen elsewhere. In the United Kingdom, women now start one new business in four. In Spain, over 14% of all female workers are self-employed (Ionescu 1999).

62. There are success stories of female entrepreneurs in all ECE countries and innovative management styles were behind many of those. Self-employment and entrepreneurship are still, however, inadequate compared to their potential. The number of female-headed companies is still lower than that of male-headed companies. Female-headed businesses are usually small-scale operations situated in traditional sectors with limited growth prospects. This situation is often explained by such features as risk aversion and lack of confidence on the part of female entrepreneurs.

63. Women face many barriers in developing their own business. The regulatory and institutional environment is often not supportive of women entrepreneurs. Supporting and risk-reducing institutions, such as chambers of commerce, professional organizations and local institutions, are gender neutral and do not address female entrepreneurship. Women usually have less experience, fewer external contacts and less branch experience (Horejs 1999). Their family responsibilities limit the time available for learning and/or exploring business opportunities. The price of becoming an entrepreneur is thus often conflict within the family, divorce or remaining single, as demonstrated by country studies (Nagy 1999). Also, the social climate is generally less favourable to female entrepreneurship and there are stereotypes on gender roles in society. This translates into a negative public attitude towards women entrepreneurs, unfavourable treatment by the state and/or de facto discrimination in connection with bank loans.

64. Self-employment and entrepreneurship face many barriers, especially in transition countries. The instability of the tax system and other regulations in the private sector, lack of access to credit, the undeveloped institutional network of information and business incubation centres, business associations, etc. and the lack of support from local communities, make it difficult for men and women to launch new companies. In many countries, women are also more vulnerable to new forms of crime such as racketeering, which is widespread in the Russian Federation and other CIS countries (Nesporova 1998).

New initiatives and good practice in supporting entrepreneurship

65. New initiatives and good practices in support of female entrepreneurship are found in all countries of the ECE region. They are implemented by governments and international organizations as well as by NGOs. In the United States, the Women's Business Center Programme established by the Congress in 1988 is a good example of how public and private sectors can work together. Measures to facilitate female entrepreneurship encompass the provision of information and free advice to women who intend to start their own business, networking and organizational support facilitating access to resources and credit. These can be found at local and country level (examples being the Women's Entreprise Agency in Finland, the SEED Foundation in Hungary, and the

programme supporting female entrepreneurs in Croatia) and at regional level (OECD Local Economic and Employment Development (LEED) programme, CEI initiative on female entrepreneurship and Brijuni conference). NGOs play a very active part in supporting female entrepreneurship. New initiatives in transition countries include research on female entrepreneurship and establishment of a framework for discussion of female entrepreneurship (International Forum for Women at the Warsaw School of Economics, in Poland; University of Economic Science in Budapest, Hungary).

C. Social protection

66. Inadequate social protection of women in the ECE region is the third area of concern. There are two main problems: shrinking provision of many public services and the design of social protection schemes, which have a gender bias, especially as regards benefits related to employment (unemployment benefits and pensions). These schemes are based on the male breadwinner approach and do not recognize that women's patterns of unpaid as well as paid employment and remuneration are significantly different from those of men. The social protection system reflects and strengthens gender inequalities on the labour market. Attention in most ECE countries is now turning to the design of pension schemes and the social protection of older women, in view of ageing and the potential gender implications of pension reforms.

(a) Shrinking state provision

67. During the 1990s, the provision of many public services, such as health and education, by the state shrank. This reflected persistent constraints on public expenditure, in some Scandinavian countries, for example, and especially in all transition countries. Cuts in public services were also related to the move towards a reduced role of the state and an increase in individual responsibility. This trend resulted in the privatization of many public services, including education and health, and a move towards funded social protection schemes, such as private pensions. Access to many services narrowed as the costs rose.

68. Reduced access to public health and education services had a negative impact on women's health and children's education. From 1989 onwards, maternal and child mortality increased in the Russian Federation and most other CIS countries. Primary education deteriorated and schools lost many of their social functions, such as primary health care, optional courses, tutoring and hobby clubs. In the past, schools played an important role in equalizing educational opportunities for children coming from poorer families and easing the burden of childcare for working women (UNICEF 1998, NHDR 1998).

(b) Unemployment benefits

69. With the growing uncertainty in labour markets and frequent job changes, access to unemployment benefits is an important risk-reducing factor. Atypical jobs, where women are over-represented, are largely deprived of these benefits. Moreover, many ECE countries have tightened conditions for derived rights to unemployment benefits, due to financial constraints. Many women thus become more and more dependent upon their spouses for financial and social protection. In countries where unemployment benefits are related to the level of wages, women receive lower benefits than men because of the generally lower level of female wages (Jepsen and Meulders 1997).

(c) Pensions

70. Despite social protection measures for old age, many women either have a meagre pension or do not have an entitlement in their own right. The latter is also related to atypical jobs. This puts them at a high poverty risk and is explained by the existing pension schemes.

71. Most pension schemes are based on contributions and cover only those employed in the context of the market. Benefits depend on the level of earnings and time spent in formal employment. Women's unpaid care provision often prevents them from taking formal employment and/or they accept jobs that are not covered by social security. Many categories of employee where women are over-represented, such as domestic employees, part-time workers and homeworkers, are simply excluded. These women are treated by social protection systems as dependants of their male breadwinners. Based on the concept of dependence, they are entitled to certain benefits, such as a survivor's (widow's) pension or pension-splitting on divorce.

72. In some countries, the social protection systems rely to a large extent on voluntary employer schemes, of which women are less likely to be members than men. Also, countries are replacing social insurance schemes with mandatory savings systems, which embody a gender bias in calculating benefits, because of women's longer life expectancy.

73. Pension reforms in transition countries have an important gender dimension. In the past, pension systems were generous towards women and included earlier retirement, credit for years spent out of the labour force in order to have children, and a relatively weak link between the level of pension and the level of contributions. Most countries have now changed their pension systems. There is a trend to raise the retirement age but also to link contributions and benefits more closely and introduce private pension schemes.

74. Hungary, Latvia and Poland have already introduced mandatory savings systems as a supplement to the downsized basic scheme. Now time out to have children, time worked in the informal sector and the lower level of wages (and contributions) will adversely affect the pensions of many women (Castel and Fox 1999). Changing pension schemes (moving from pay-as-you-go towards funded schemes) will have especially negative consequences on women close to retirement age, who will have to rely on meagre state pensions. Poverty among older women may rise as women's dependence on a pension increases, due to demographic trends such as high male mortality, divorce and longer life expectancy. Another problem is that their declining labour market participation may deprive women of pensions and they will have to rely on social assistance.

New initiatives and good practice in social protection

75. New initiatives and good practices to enhance social protection focus primarily on measures to transform unpaid caring work into a form of paid work. This is done by paying child-related benefits outside the market (e.g. the home childcare allowance in Finland).

76. Another group of measures involves various caring credits for women who do unpaid work, to enhance entitlements paid through the market, such as pensions. These caring credits are used by a number of Western countries (such as Ireland and the United Kingdom). The Canada Pension Plan includes provisions such as a child-rearing drop-out provision, credit splitting and full indexation of benefits.

77. Canada has taken a broader view of protection of elderly women, recognizing the need to ensure not only an adequate level of public pensions but also other services, especially health care and social assistance. This approach has been recognized as the most efficient in reducing poverty among older women. In the province of Quebec, a pilot project aims at finding the best ways of diversifying the provision of social protection for elderly women, based on a different pattern of needs and the demand for protection among men and women.

IV. CONCLUSIONS AND POLICY RECOMMENDATIONS

78. Despite some progress, gender equality in the economy remains a concern in all countries of the ECE region. The gender gap in employment, unemployment and wages shows that the position of men and women in the economy is still unequal. Implementation of the Beijing Platform for Action requires strengthening policy commitments as well as practical measures, which address problems typical of different stages of women's lives and family formation.

79. The slow progress of institutional change and engendering macroeconomic policy is an important barrier to attaining the objectives of the Beijing Platform. It replicates the de facto disadvantages of women in the economy, even if an increasing number of women in ECE countries formally enjoy equal access to employment. Institutions are not, as assumed by economic theory, gender neutral, but they produce and transmit gender bias (United Nations 1997; Elson 1999). Institutional change requires new attitudes and social norms at family and society level and is of special concern in transition countries, which are now in the process of building institutions.

80. The review of new initiatives and good practices indicates that practical measures should aim at enlarging women's choices in several areas such as care options as well as entry to and exit from the labour market without the loss of work-related benefits. Another area relates to improving women's social protection and ensuring equal access to social benefits. These require changes in entitlements and resource allocation, including in public expenditure and the state budget. Some countries have already taken steps in this direction which requires more information on women's situation within the household, including more disaggregated data on female poverty (UNIFEM 2000).

81. Three main avenues for action, based on new initiatives and good practice, are recommended below.

A. Eliminating discrimination against women in the sphere of work

82. Eliminating discrimination against women in the sphere of work requires concerted action on the part of a wide range of actors: the state, the private sector, trade unions and NGOs. Countries should review not only existing anti-discrimination legislation but also employment practice from the point of view of eliminating gender segregation in the labour market. Gender should be part of collective bargaining. Training in ensuring equal opportunities and preparation of practical guides on how to reduce discriminatory practices in hiring, employment and remuneration are of importance. Special attention should be given to measures aimed at changing attitudes and stereotypes of gender roles at work and in the family, as this is a basic requirement for making significant progress in eliminating discrimination in the labour market.

B. Increasing women's employability

83. Increasing women's employability requires the adoption of schemes which maximize women's access to various forms of employment through their lifetime. Part of such schemes should respond to the increasing needs for care in society and focus on life-long learning adjusted to women's family situation, with the involvement of the public sector (national and local), the private

sector and NGOs. The same actors should also be involved in designing schemes to encourage men and women to take equal responsibility in caring for children, the elderly and dependent family members.

C. Promoting gender equality in social protection

84. Promoting equality entails budget appropriations and social expenditure. It requires also the extension of social coverage to part-time, temporary and other atypical work arrangements. This coverage should include health, pension and unemployment benefits funded, through a suitable mix, by individuals, the state and social partners. Finding appropriate solutions calls for partnership among social partners. Countries should also introduce such measures as caring credits, whereby pension schemes take into account the number of years of unpaid work of women and men related to family responsibilities.

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ANNEX I

MIGRANT WOMEN IN THE ECE REGION */

1. In the ECE region, a combination of globalization, political changes in the CIS and CEE, and developments in the immigration policies of the receiving countries all have an interlinked impact on immigration flows.

2. A majority of women's migration into the ECE region takes place within family reunification, but women are also increasingly moving as "autonomous units", for temporary labour migration, or pioneering the migration chain where later the family members will follow.

3. A combination of economic, social, and political processes has been put forward as an explanation for this feminization of migration. Although the exploitation of the "comparative advantages of women's disadvantages" (Lim 1998) seems to be the case for many migrant women, the picture of women's migration and migrant women's activities in the economy is in all quite diversified. For many immigrant women, lack of language skills, low level of formal education, the discrimination faced as women and as immigrants, and the temporary or undocumented status have a cumulative effect in pushing them towards the margins of the labour market. However, not all women labour migrants in the ECE region are marginalized. Quite a number of migrant women are highly trained. Migrant women may also take up successful entrepreneurial activities.

4. A general setting for women's economic migration in the ECE region, and elsewhere too, is therefore that migration does realize many empowering opportunities, economically and socially, but women's manifold vulnerability raises risks and probabilities of discrimination and abuse.

Migrant Women in the Economies of the ECE Region

5. Immigration statistics for OECD countries and certain CEE countries show that in the past decade the share of women among immigrants has remained at between 40 and 50 %. In the United States, however, women's share of yearly recorded intake has, especially in the 1990s, typically amounted to 52-56 %. For Western European countries the statistics show no dramatic recent changes, but notable peaks with female immigrants from the CEE (e.g. Poles in Canada, Belgium or Sweden) or from South East Asia clearly outnumbering their male compatriots (OECD 1999).

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*/ Based on a text contributed by the International Organization for Migration, 18 November 1999.

6. The increasing demand for domestics, due to the ageing population, changing family structures (Kofman 1999) and perhaps also to the emerging dual or class structure of labour markets and society (Zhou 1997) are factors which obviously favour the increasing use of immigrants, notably women. In the countries of the European Union, it is estimated that about one million migrant women work as domestic servants (Kofman 1999), especially in big cities. Cases of abuse that have been taken up by organizations working against slavery suggest that the living and working conditions of these migrant women vary largely. A worse form of abuse is the case of trafficked women (see E/ECE/RW.2/2000/3).

7. The immigrants entering the North American states show great differences in levels of education, occupation and income. According to Zhou, the processes of globalization and economic restructuring have transformed the US labour markets into a dual structure consisting of a core sector of knowledge-intensive or capital-intensive jobs offering high wages, good working conditions and career stability, and a sizeable marginal sector using a low-skilled and labour-intensive labour force, and characterized by minimum wages, poor working conditions and practically no upward mobility. Research suggests that this presents new obstacles to labour migrants.

8. Migration movements of CIS nationals take place mainly inside the CIS and tend to be dominated by male labour migrants. The IOM statistics for 1997 show that the main women's migration movements in the CIS were initiated on the grounds of family reunions (IOM 1999).

Advancement of Migrant Women

9. In order to combat exploitation of the vulnerable position of women migrant workers, measures must be taken against all forms of degrading treatment, both physical and mental, against intentional retention of salaries or agreed benefits, and against limiting freedom of movement or contacts with the family. The recommendations to combat these phenomena include a comprehensive list of measures for governments of both sending and receiving countries in order to make women's migration more orderly and safe and to empower them against and minimize risks of mistreatment. Governments are recommended to recognize the economic impact of migrant women, arrange pre-migration training, make available information and support of consular officials and instances providing health care, and support organizations and networks. Governments are also urged to adhere to relevant international legal instruments concerning the human rights of women migrants, to set up mechanisms to monitor the conditions of migrant women and agencies that recruit women for labour migration, and to set up reintegration programmes for returning migrant women.

ANNEX II

Table 1: Growth rates of labour force and employment in selected transition countries by sex, 1985-1997
(cumulative, %)

	Labour force		Employment	
	Female	Male	Female	Male
Hungary	-35	-22	-40	-30
Estonia	-23	0	-31	-11
Latvia	-22	-1	-33	-16
Lithuania	-11	8	-24	-7
Russian Federation	-11	6	-21	-6
Slovenia	-10	-9	-16	-16
Czech Republic	-5	3	-12	-1
Poland	-2	0	-13	-8

Source: ECE 1999

Table 2: Activity rates and female share in labour force in selected transition countries, 1985-1997

	Difference between 1985 and 1997 activity rates (% points)		Female activity rate 1997	Percentage women in labour force, 1997
	Female	Male		
Hungary	-18	-13	43	43
Latvia	-14	No change	54	49
Slovenia	-12	-17	53	46
Estonia	-10	+3	58	48
Russian Federation	-10	-2	54	47
Lithuania	-9	+2	56	47
Czech Republic	-7	-4	52	44
Poland	-5	-4	50	46

Source: ECE 1999 Economic Survey of Europe, Vol.1

Note: Working age population used to calculate activity rate is 15 and over except for Hungary and Estonia (15-74). Due to differences in the definition of working age population, activity rates are not comparable with those for Western countries.

Table 3: Changes in female employment in financial services and education in selected transition countries (percentage women in total employment in respective branch)

	Financial services			Education		
	1993	1997	Change	1993	1997	Change
Latvia	90	66	-24	78	80	+2
Lithuania	86	72	-14	67	77	+10
Russian Federation	86	72	-14	72	74	+2
Hungary	76	66	-10	76	76	None
Estonia	76	68	-8	86	82	-4
Slovakia	77	72	-5	75	79	+4
Slovenia	69	67	-2	74	78	+4
Czech Republic	67	68	+1	72	77	+5
Romania	62	65	+3	69	72	+3
Poland	52	70	+12	74	76	+2

Source: Ruminska-Zimny based on data from UN/ECE 1999.

For Latvia, Lithuania, Russian Federation (1972-1997); Estonia, Hungary (1992-1996); Romania, Slovakia (1994-1997).

Table 4: Changes of wages in the financial services and education in selected transition countries (average wage = 100)

	Financial services		Education	
	1993	1997	1993	1997
Lithuania	305	211	78	86
Estonia	196	205	84	78
Hungary	190	199	98	86
Slovakia	187	194	82	84
Czech Republic	178	174	90	88
Romania	151	238	93	83
Poland	150	150	90	89
Slovenia	144	149	141	131

Source: Ruminska-Zimny based on ILO data (Laborstat).

Table 5: Activity rates for women aged 20-45 by number of children under the age of 15, 1996

	0 children	1 child	2 children	3 children
Finland	82	80	80	66
France	78	81	74	50
Germany	83	72	60	42
UK	86	71	65	48
Netherlands	83	66	61	48
Ireland	77	62	54	41

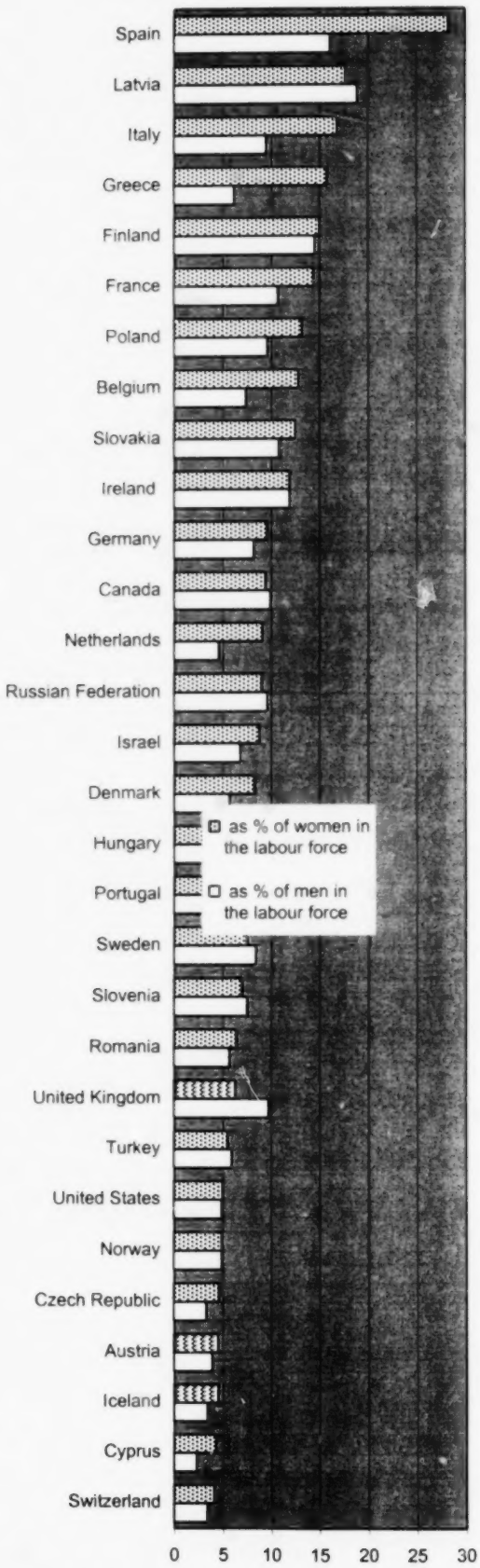
Source: Eurostat LFS 1996

Table 6: Public childcare of 0-3 year-olds and parental benefits in selected EU countries

	Percentage of 0-3 year-olds benefiting from public childcare	Difference in parental/maternity leave from EU average (months)	Compensation during parental leave
Sweden	33	13.8	% salary
Denmark	48	7.8	Low compensation
Finland	21	13.8	% salary
Austria	3	1.8	Low compensation
Germany	2	13.6	Low compensation
France	23	13.8	Low compensation
Netherlands	8	-7.2	No compensation
Ireland	2	-19.2	No leave
UK	2	-16.2	No leave
Greece	3	-13.2	No compensation
Italy	6	-13.2	% salary
Portugal	12	4.8	No compensation
Spain	2	13.8	No compensation
EU	13	22.2	-

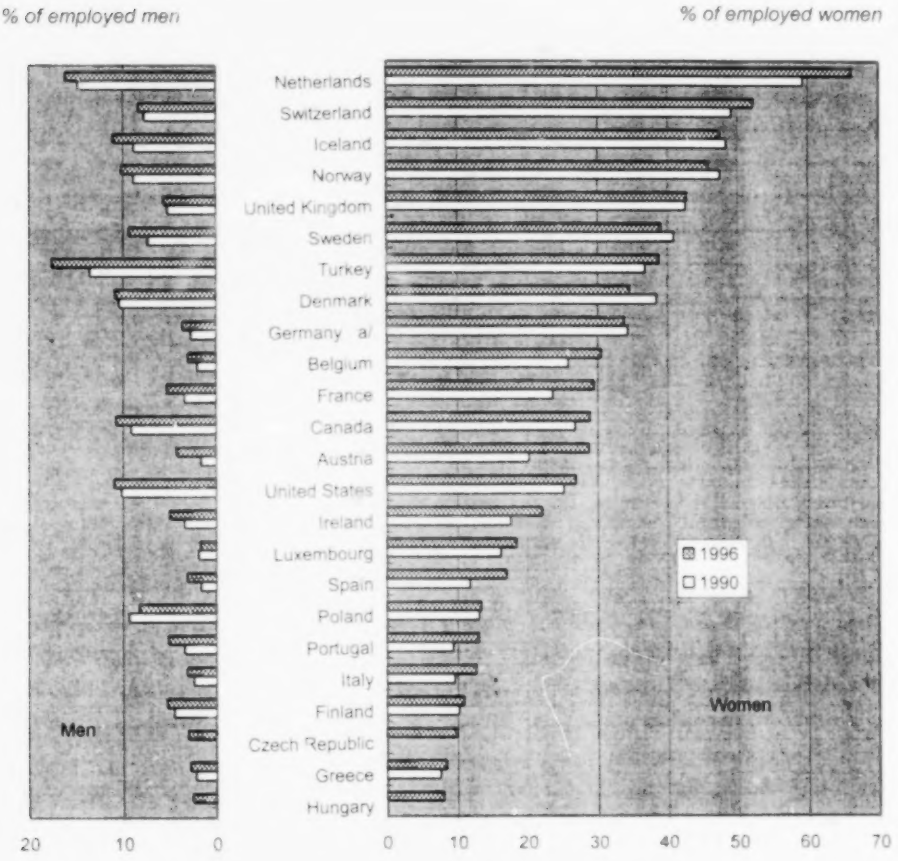
Source: Eurostat LFS 1996 and Linda Hartrais based on Eurostat LFS

Figure 1 Unemployment rates by gender for selected countries, 1996/97



Sources:
Yearbook of Labour Statistics, 1997, ILO
Bulletin of Labour statistics, 1998-2, ILO.

Figure 2 Part-time employment* by gender, Europe and North America, 1990 and 1996



Sources: Employment Outlook, July 1997, OECD, and national sources.

a/ Data for 1990 relate to 1991.

*Definition of part-time employment varies across countries.

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TRAFFICKING IN WOMEN AND GIRLS

Note prepared by the Office of the High Commissioner
for Human Rights and the ECE secretariat

Introduction

1. Each year, millions of individuals, the vast majority women and children, are tricked, sold, coerced or otherwise procured into situations of exploitation from which they cannot escape. Many are physically restrained. Others are intimidated in less direct ways. Perhaps the majority are tied to their situations through debt-servicing agreements which amount to little more than bondage. These individuals are the commodities of a multi-billion dollar global industry, which is dominated by highly organized criminal groups who operate with impunity. Recent research has confirmed a rapid increase in the incidence and severity of such practices as well as their highly systematic nature and exploitative effects. Increasing economic hardship - particularly in developing and transitional countries, onerous obstacles to legal migration and serious armed conflict have coincided with a reported rise in the number of cases of trafficking in the ECE region as well as a spreading of the problem to areas which were previously less affected.

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2. Trafficking was a major issue of discussion at the Fourth World Conference on Women. Participants recognized that the effective suppression of trafficking is a matter of international concern and that the use of women in international prostitution and trafficking networks has become a primary focus of international organized crime[1]. One of the Strategic Objectives of the Platform for Action is to "*eliminate trafficking in women and assist victims of violence due to prostitution and trafficking*"[2]. Governments of countries of origin, transit and destination, as well as regional and international organizations (as appropriate) are enjoined to consider ratification and enforcement of international conventions on trafficking and slavery; to address root factors that encourage trafficking in women and girls, to cooperate in the dismantling of national, regional and international networks on trafficking; to allocate resources to assist victims of trafficking and to develop preventive programmes and policies[3]. Governments are also urged to strengthen human rights instruments in order to combat and eliminate trafficking; provide legal and social services to victims; and cooperate at the international level to prosecute and punish those responsible for the organized exploitation of women and children"[4].

3. Five years after Beijing the problem of trafficking remains high on the international political agenda. A global instrument against trafficking is currently being negotiated under the auspices of the UN Crime Commission[5]. The Council of Ministers of the European Union has issued several specific directives on trafficking[6] and the Parliamentary Assembly of the Council of Europe has adopted a recommendation on the subject[7]. In July 1999 the Parliamentary Assembly of the OSCE unanimously passed a resolution condemning sex trafficking and urging States to punish traffickers. From 1999, a special section on "Trafficking" will be included in every country chapter of the US State Department's *Country Reports on Human Rights Practices*[8]. A large number of other ECE countries have amended or adopted legislation in an effort to suppress trafficking, punish traffickers and protect victims.

4. One reason behind this growing interest is clearly the connection between trafficking and the highly politicized issue of migration - particularly illegal labour migration. Many States are concerned that the actions of traffickers interfere with orderly migration and facilitate the circumvention of national immigration restrictions. The link between trafficking and organized criminal networks has also provoked a number of States into taking action at the national level and lobbying strongly for an international law enforcement response. For some States and for large sectors of the relevant NGO community, the human rights and gender dimensions of the problem have provided the impetus and the underlying rationale for action. Despite this increased attention (and perhaps because of different perceptions of the problem), many of the recommendations made in Beijing remain to be implemented

and attempts to deal with trafficking at the national, regional and international levels have, thus far, been largely ineffective.

5. The subject of this working paper is trafficking in the ECE region as one manifestation of the broader challenges currently facing women and girls in this part of the world. Section 1 of the paper sets out to establish a working definition of trafficking. Section 2 identifies patterns and causes with a particular focus on the human rights, migration and organized crime aspects of trafficking. In Section 3 an overview is made of recent counter-trafficking initiatives at the level of international law and policy, within the ECE and at the national level. Section 4 contains specific recommendations for action. These are divided into seven categories; basic policy principles; improving the information base on trafficking; ensuring an adequate legislative framework; ensuring an adequate law enforcement response; protection and support for trafficked persons; cooperation between countries; and preventing trafficking.

1. DEFINING TRAFFICKING

6. Trafficking has never been precisely defined in international law. The absence of a definition has long been considered an obstacle to effective action. Recent attempts to reach agreement on this issue have been marred by major differences of opinion concerning the ultimate end result of trafficking, its constitutive acts and their relative significance. The various definitions which have been promulgated tend to reflect the perspective of their promoters. For example, an organization concerned with orderly migration will naturally emphasize the migration aspect of trafficking. One concerned with human rights will tend to identify human rights violations as a critical defining factor. It is also apparent that those who seek to advance the cause of women working in prostitution will prefer a different definition of trafficking from those who consider all forms of prostitution intolerable.

7. In 1994 the General Assembly of the United Nations stipulated that trafficking is *the illicit and clandestine movement of persons across national and international borders... with the end goal of forcing women and girl-children into sexually or economically oppressive and exploitative situations for the profit of recruiters, traffickers, crime syndicates as well as other illegal activities related to trafficking such as forced domestic labour, false marriage, clandestine employment and forced adoption."*[9]. The International Crime Commission has recently taken up the spirit of this definition by proposing a distinction be made between trafficking on the one hand, and migrant smuggling, on the other. The draft Protocol Against the Smuggling of Migrants by Land, Air and Sea[10] (which is currently being developed under the auspices of the Crime Commission along with another

instrument on trafficking), defines the smuggling of migrants to mean: *the intentional procurement, for profit of the illegal entry of a person into and/or illegal residence of a person in a State of which that person is not a national or a permanent resident*"[11]. The draft Protocol on Trafficking in Persons Particularly Women and Children proposes the following definition: *Trafficking in persons means the recruitment, transportation, harbouring or receipt of persons, either by the threat or use of kidnapping, force, fraud deception or coercion or by the giving or receiving of unlawful payments or benefits to achieve the consent of a person having control over another persons for the purpose of sexual exploitation or forced labour*[12].

8. Despite the differences in preferences and priorities referred to above, these two definitions, taken together, represent the general understanding of what trafficking is all about. Trafficking means much more than organized illegal movement of persons for profit. The critical element of trafficking is the presence of force or coercion throughout or at some stage during the process. In practice, trafficking from and through ECE countries takes place for a variety of end purposes including sweatshop labour and domestic service. However, forced prostitution is the most visible end result of trafficking and many would claim that it is the most common. While there can be no disagreement with regard to the coercive nature of *all* child prostitution, it is not always easy to identify which cases of adult prostitution involve force and which do not. It is sometimes argued that *all* women and men who prostitute themselves do so as a result of some kind of coercion including force of circumstance resulting from poverty or economic dependence. Others take the position that prostitution can be a valid work-choice for an adult individual and that coercion must be overt to amount to forced prostitution. Both the General Assembly and the Crime Commission appear to have endorsed the view that the definition of trafficking should not be limited to trafficking for sexual exploitation alone and, in addition, that some form of coercion must be involved to separate trafficking from migrant smuggling.

2. PATTERNS AND CAUSES

(a) Information on trafficking

9. While significant research on the nature and scope of trafficking has been undertaken in recent years, there is still a serious absence of reliable information - particularly at the official level. Much of that which is available is in the form of non-statistical data and indirect indicators. Very few ECE countries collect statistical information on trafficking. Where statistics do exist, their usefulness is undermined by a lack of uniformity in collection procedures and the absence of a common understanding as to the nature of trafficking. In some ECE countries, for example, trafficking is not defined in the criminal law and there is accordingly no reference point from

which to obtain statistics or to analyse information collected. Where such definitions do exist, differences between them make inter-State comparisons extremely difficult. Another reason for the paucity of statistical data on trafficking is the nature of the process. It is almost certain that the vast majority of cases remain undetected and unreported because victims fear turning to national authorities for help[13]. Improvements in data collection will clearly be an essential pre-requisite for the development of effective solutions.

(b) Trafficking fact-patterns

10. Despite the lack of detailed and verifiable information, the existence of a serious problem is beyond dispute. While trafficking patterns vary significantly, certain "typical" elements are detectable - particularly with regard to trafficking for forced prostitution. The following paragraphs seek to provide an overview of the situation within the ECE region.

11. Available information confirms that trafficking is a phenomenon which affects and implicates all ECE countries in one way or another[14]. While trafficking routes are continually changing, one constant factor is the economic distinction between countries of origin and countries of destination. As with illegal labour migration, trafficking invariably involves movement from a poorer country to a wealthier one. Filipino and Vietnamese women are trafficked to North America[15]. Nigerian women are trafficked to Germany, Italy and Belgium[16] and women from the Dominican Republic are trafficked to Austria[17]. The breakup of the former Soviet Union and the resulting economic and political dislocation led to a dramatic increase in the absolute number of women trafficked from Central and Eastern Europe. Tens of thousands of Russian and Ukranian women have been trafficked to Israel and North America[18]. Czech and Bulgarian women have been trafficked in large numbers to Germany and Austria[19].

12. Some ECE countries are simultaneously points of departure, transit and destination for trafficked person. Poland, an important European "buffer" State, is a case in point. Trafficked persons, many from countries of the former Soviet Union, pass through Poland on their way to Western Europe, Canada and the United States. Migrant women, many of whom have been trafficked comprise a significant proportion of the domestic sex industry in that country. A large number of Polish women have reportedly been trafficked to Western Europe and the Middle East[20]. Hungary and other middle-Europe countries have also become points of departure, transit and destination[21].

13. Recent experiences in Europe have confirmed that trafficking will flourish during and after protracted social conflict. The former Yugoslavia has become a primary trafficking destination as well as an important transit

and processing centre for women from Central and Eastern Europe. Anecdotal evidence of trafficking during the Kosovo conflict suggests that women and girls were kidnapped by armed gangs or otherwise lured from the refugee camps of Northern Albania[22]. Several international organizations have recently reported that trafficking to and from Kosovo is now on the rise in response to a perceived demand for prostitution on the part of wealthy foreign workers.

14. Traffickers use a variety of recruitment methods including abduction and outright purchase through family members. However many potential victims of trafficking are already seeking a chance to migrate when they are approached by an acquaintance or lured through an advertisement. Some are tricked into believing that they are being recruited for legitimate employment or marriage abroad. Others know that they are being recruited into the sex industry and even that they will be obliged to work to pay back large debts to the traffickers but are deceived about their conditions of work. The web of dependence is a complex one. Traffickers generally exercise control over a woman's legal identity by confiscating her passport and official papers. Her entry into the destination country is often illegal - serving to increase her reliance on traffickers. Debt bondage is widely used to control trafficked women and to ensure their continued profitability. Physical restraint, violence and intimidation are frequently reported.

15. Traffickers are rarely apprehended and even more rarely prosecuted. Penalties for trafficking are relatively light when compared to smuggling of drugs or weapons. One reason for the poor law enforcement response to trafficking is the low incidence of reporting. This is not difficult to understand. Victims of trafficking are rarely treated as anything other than criminals by authorities of the receiving State and are often prosecuted, detained and deported. This reality, combined with a fear of reprisals from traffickers, means that trafficked persons have little incentive to cooperate with law enforcement authorities in destination countries. A lack of knowledge of legal rights, cultural and linguistic obstacles and the absence of support mechanisms combine to further isolate trafficked women and to prevent them from seeking or receiving justice.

(c) The causes of trafficking

16. The causes of trafficking are complex and can only be discovered through analysis of the motivations of the principal actors. In relation to countries of origin it is necessary to identify the factors which encourage families to sell their female members or women to seek employment abroad and to accept the inevitable risks that accompany being trafficked. In most cases, economic factors, such as poverty and unemployment are determinative. Social and cultural factors such as discrimination and gender-based violence also seem to play an important role. Many countries of origin encourage migration, both

legal and illegal in order to relieve domestic employment pressures and ensure a return flow of hard currency. Additional factors, common to both countries of origin and countries of destination, include a lack of appropriate legislation, failure to implement legislation, and public sector corruption.

17. Trafficking is also the result of broader social and economic forces. The rapid increase in trafficking for prostitution can be traced to increased demand caused by the rapidly expanding global sex industry. Migration patterns are also relevant. Women and men now migrate in roughly equal numbers and the annual growth in female migration has been greater than that of male migration in most parts of the world including throughout the ECE region. This is the result of structural changes in countries of origin as well as changes in workforce demands in receiving countries. The global labour market reproduces traditional gendered divisions of labour. Women have less opportunity than men to engage in skilled work. They are therefore much more dependent than men for employment in the informal unregulated sectors such as the sex/entertainment industry and domestic service. Within the ECE region, opportunities for legal migration have decreased dramatically - a direct effect of more strictly regulated migration flows into Western Europe and North America. The growing feminization of labour migration on the one hand and increasingly restrictive immigration policies of recipient countries on the other have created a distinct market demand which is presently being filled by traffickers.

18. Transnationally operating crime cartels have become an important mediator of immigration in Europe and North America, "partly replacing or at least overlaying the classic push-and-pull factors of migration-inducing international ties between origin and destination country or migration-maintaining kinship and family networks[13]". These organized criminal networks are heavily involved in trafficking as well as in migrant smuggling[14]. As a result of this involvement, the trafficking process is becoming more efficient and flexible, better-structured, increasingly coercive and less amenable to traditional law enforcement responses.

19. The relative impact of various "causes" will depend upon a wide range of variables. It is therefore not possible to present a definitive list of trafficking causes which will apply equally to all regions and all situations. There is however, one uniting and pervasive factor: the multi-layered discrimination and inequality which serve to prevent women and girls from exercising power over their lives.

3. INTERNATIONAL, REGIONAL AND NATIONAL RESPONSES

(a) International law and policy

20. International law has not been able to deal with the trafficking issue systematically or consistently. Many of the early slavery conventions have been invoked in the trafficking context although their application in practice has been limited by the fact that they pre-date most modern practices relating to trafficking. The only directly relevant international instrument dealing with trafficking is the 1949 *Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others*[25]. The Convention has weak enforcement mechanisms and has not been widely ratified. The Beijing Platform for Action does however make specific reference to the Convention and urges review and strengthening of its implementation[26].

21. Until very recently, most international activity in the area of trafficking took place within the context of human rights - specifically the human rights of women. An explicit prohibition on forced prostitution and exploitation of the prostitution of others is contained in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This instrument obliges States Parties to take all appropriate measures including legislation to suppress all forms of traffic in women and the exploitation of prostitution of women[27]. Under the Convention on the Rights of the Child (CRC), States Parties are to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form[28]. Children are also to be protected from all forms of sexual exploitation and sexual abuse[29].

22. Other provisions of international human rights law are also relevant to the trafficking issue. These include the prohibition on forced labour, which is contained in the ILO Abolition of Forced Labour Convention[30] as well as the International Covenant on Civil and Political Rights[31], the International Covenant on Economic, Social and Cultural Rights[32], the European Convention on Human Rights [33]and the Inter-American Convention on Human Rights[34]. International law also forbids debt bondage[35] - a practice, which is commonly employed as a means of compelling women and girls to remain in prostitution and female migrant workers to remain with abusive employers.

23. In terms of the international human rights mechanisms themselves, attention to trafficking has generally been superficial and sporadic although several of the human rights treaty bodies - particularly the Committee on the Elimination of Discrimination against Women (CEDAW), Committee on the Rights of the Child (CRC) and Human Rights Committee (HRC), and Committee on Economic, Social and Cultural Rights (CESCR) have occasionally paid attention to the issue in examining reports from States Parties[36]. Part of the problem

for the treaty-bodies is clearly the lack of an internationally accepted legal definition of trafficking and a fundamental disagreement on the question of prostitution to which trafficking has traditionally been linked.

24. The principal body dealing with trafficking in the UN is the relatively low-profile Working Group on Contemporary Forms of Slavery which is a subsidiary body of the Sub-Commission on Protection and Promotion of Human Rights (itself a subsidiary body of the Commission on Human Rights). Forced prostitution (in the context of "exploitation of prostitution" and "trafficking") has always been on its agenda and, through the Working Group, is therefore the subject of regular resolutions adopted by both the Sub-Commission and Commission on Human Rights. In 1992, the Working Group elaborated a comprehensive Programme of Action for the Prevention of the Traffic in Persons and the Exploitation of the Prostitution of Others[37]. This document was finally adopted by the Commission on Human Rights in 1995 but has not been implemented or otherwise followed up.

25. Another important mechanism concerned with trafficking is the Special Rapporteur on Violence Against Women. In her first report, submitted to the 1995 session of the Commission on Human Rights, the Special Rapporteur examined the phenomenon of prostitution and trafficking from the perspective of gender-based violence and human rights[38]. This issue was again taken up by the Special Rapporteur two years later - both in her annual report[39] and in the context of a special mission which she undertook to Poland[40]. The Special Rapporteur will devote her next annual report (2000) specifically to the trafficking issue.

26. The Commission on the Status of Women (CSW) has played an important role in keeping alive the issue of trafficking and related sexual exploitation of women and girls. CSW has also contributed to the growing awareness of the plight of female migrant domestic workers. As a result, both issues are now regularly considered by the General Assembly and have thus been the subject of specific resolutions[41] and reports[42].

27. At the international level, consideration of trafficking is slowly moving beyond the human rights and "advancement of women" contexts. Recent initiatives have broadened the focus to include the organized crime and migration aspects of trafficking. The most significant of these is the development of a *Protocol to Prevent, Suppress and Punish on Trafficking in Persons Especially Women and Children*[43] which is accompanied by a *Protocol Against the Smuggling of Migrants by Land, Air and Sea*[44]. The Protocols will be attached to the *Convention Against Transnational Organized Crime*[45], which is currently being drafted under the auspices of the UN Crime Commission. The Convention and its Protocols are scheduled to be adopted towards the end of 2000.

28. Both Protocols are transnational cooperation agreements - their central purpose is to attack and dismantle the organized criminal elements involved in the illicit movement of migrants and trafficked persons by promoting judicial and police cooperation as well as uniform national responses. While these developments are to be welcomed, it is important to continue prioritizing the rights and well-being of individual victims. A rights-based approach would have important practical benefits. For example, prosecution of traffickers will inevitably require the cooperation of witnesses. Such cooperation will depend, to a great extent, on the capacity of States to protect and support victims of trafficking. It is encouraging to note that a number of States have recognized the link between the Trafficking Protocols' law enforcement objectives and the human rights dimensions of the practices under attack.

(b) Regional law and policy

29. The only regional treaty of direct relevance to the trafficking issue is the European Convention on Human Rights which binds the majority of ECE member States. The European Convention explicitly forbids both slavery and forced labour. It also enshrines, in law, the basic prohibition against sex-based discrimination. Other regional conventions of less direct (but perhaps increasing) relevance include the European Convention on Mutual Assistance in Criminal Cases, the European Convention on Extradition of Offenders, and the European Convention Against Money Laundering, Search and Usurpation of Profits by Criminal Means.

30. Policy development on the contemporary trafficking phenomenon is very recent with little activity reported before the early 1990s. In the ECE region, policy guidance has emanated from the principle regional bodies including the European Union (EU), the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE).

31. In 1993 the Justice and Home Affairs Council of the European Union agreed to a set of recommendations to Member States to counter trafficking[46]. Following a report on the subject[47] the European Parliament adopted, in January 1996, a comprehensive *Resolution on Trafficking in Human Beings*[48] in which trafficking was identified as a flagrant violation of human rights. In May 1996 the EU promulgated a set of *Proposals for Action to be taken by Member-States and in the Framework of the Council of Europe*[49]. In June of the same year the European Commission and the IOM held a joint conference on trafficking in women[50]. The Commission of the European Communities subsequently issued a detailed *Communication to the Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation*[51].

32. In 1997, following up on its earlier recommendations on the same subject[52], the Council of the European Union adopted a *Joint Action on*

trafficking in human beings and sexual exploitation of children. Through the (non-binding) Joint Action, EU member States agree to review existing laws and practices with a view to improving judicial cooperation and ensuring appropriate penalties (including confiscation of the proceeds of trafficking). Member States are also to ensure protection for witnesses, and assistance for victims and their families. The Joint Action makes extensive provision for strengthening cooperation between member States in all relevant areas including judicial processes and information exchange. Implementation of the Joint Action is scheduled to be reviewed by the Council by end 1999. In April 1997 an EU Ministerial Conference was held on the question of traffic in women for the purpose of sexual exploitation. The Conference resulted in the *Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation.*[53] The so-called Hague Declaration sets out recommendations at national and European level to combat trafficking, to encourage and assist victims to report trafficking to the police, to detect, investigate and prosecute traffickers, to provide victims with adequate protection, appropriate assistance and support and to ensure a "fair treatment" response on the part of criminal justice systems. A second *Communication to the Council and the European Parliament* on trafficking in women was issued in December 1998[54]. The Communication affirmed that the question of trafficking in women remains high on the agenda of the EU. It focuses particularly on the need for improved inter-state cooperation and for a multi-disciplinary approach to trafficking.

33. Council of Europe activity on the trafficking issue can be traced back to a seminar organized in 1991. Since that time the Council has been extremely active in fighting trafficking - particularly through awareness raising, public information and collaboration with non-governmental organizations. In 1997 the Parliamentary Assembly of the Council of Europe adopted a Recommendation on traffic in women and forced prostitution in Council of Europe member States[55]. According to its text, the Recommendation was prompted by the dramatic increase in trafficking in women and forced prostitution in member States; the growing involvement of organized crime in these activities; and the deterioration of the treatment of trafficked women. The Assembly recommended that the Council of Ministers elaborate a convention focussing on human rights, stipulating repressive, anti-trafficking measures through harmonization of laws, improved police and judicial communication, coordination and cooperation; and organizing assistance and protection for victims. Pending such a Convention, the Council recommended the adoption of a recommendation on the subject by the Committee of Ministers. It further recommended the Committee to urge member States, inter alia, to increase public awareness of the problem, train immigration staff, strengthen the national and international police response, ensure appropriate penalties; and provide assistance to victims especially those willing to testify against

women discovered in such situations. Attempts to prosecute traffickers are often compromised by the inability of national law enforcement to secure cooperation of victims and witnesses because of a failure to ensure victim security. For example, there are very few examples of credible witness protection programmes for trafficked persons within the ECE region. This is despite the growing awareness of the organized criminal involvement in trafficking and the very real danger that such groups pose to trafficked persons.

37. Some of the other approaches which have been taken by Governments of this region to resolving the trafficking problem have been similarly counterproductive. Many governments have sought to address trafficking by cracking down on migrant prostitution. In the absence of safeguards and support structures, these responses have invariably caused great distress and hardship to marginalized and vulnerable communities - further isolating and endangering victims of trafficking while doing nothing to apprehend or punish traffickers.

38. Increasingly however, governments of the ECE region are displaying a willingness, at least in principle, to take this issue seriously. The various policy initiatives outlined in the previous sub-section provide ample evidence of this trend. At the national level legislation has been strengthened in a number of countries with the aim of preventing exploitation of prostitution, punishing traffickers and dealing with the organized criminal aspects of trafficking. Some ECE countries, including Belgium, Italy and the Netherlands, have developed legal and administrative frameworks which encourage prosecution of traffickers through extending protections (such as temporary residence and social assistance) to victims of trafficking.

39. Many governments of the ECE region have also evidenced a willingness to work more closely with national women's and human rights NGOs - most of whom demonstrate a practical understanding of the trafficking situation and of the kind of solutions which are needed. In the worst affected countries national and international NGOs work together to support the reintegration of trafficked women and to prevent further trafficking through education and sensitization campaigns. Many national NGOs are also providing much-needed practical support to victims of trafficking in the form of repatriation assistance, emergency accommodation, health-care, job assistance and protection for families.

4. BREAKING THE TRAFFICKING CYCLE: RECOMMENDATIONS FOR ACTION

40. Trafficking is not one event but a series of constitutive acts and circumstances implicating a wide range of actors. It is essential that anti-trafficking measures take account of this fact and that efforts be made

- Women and children should be not treated the same in the identification, rescue and repatriation process. Children have special rights and special needs which must be recognized and protected.

- Efforts must be made to address the root causes of trafficking, including poverty, inequality, discrimination and racism.

(b) Improving the information base

42. Realistic, relevant and effective anti-trafficking strategies must be based on current and reliable information. The quality of information presently available makes it extremely difficult to determine the real dimensions of the trafficking phenomenon and to prepare appropriately targeted responses. There is an urgent need to improve data collection, analysis and exchange.

43. Governments (and, where applicable, intergovernmental and non-governmental organizations) should consider:

- Standardizing statistical data on trafficking at both the international and regional levels and, to this end, agreeing on a definition of trafficking and its constitutive elements as well as developing detailed indicators on trafficking.

- Improving information sharing between various state agencies at the national level - for example, between social and health inspectorates and law enforcement services.

- Establishing national-level data bases on traffickers and trafficking methodologies in countries of origin, transit and destination.

- Setting up international or regional data-bases to identify and track criminal networks involved in trafficking as well as methods and means which are being employed - making full use of the facilities and analytical support which could be provided by Europol and Interpol in the implementation of this initiative.

- Undertaking, encouraging and supporting research into trafficking (particularly into trafficking methods and motivations of the principal actors).

- Recognizing the role of NGOs in improving the information base and integrating NGOs into information strategies.

(c) Ensuring an adequate legal framework:

44. The lack of appropriate legislation at the national level has been identified as a primary obstacle in the fight against trafficking. In addition to assisting in the identification and prosecution of traffickers, appropriate legal provisions will encourage national and inter-state reporting and promote uniformity in data collection and analysis.

45. Governments (and, where applicable, intergovernmental and non-governmental organizations) should consider:

- Ensuring that the crime of trafficking is precisely defined in national law and that detailed guidance is provided as to its various punishable elements.

- Ensuring that trafficking and related practices such as debt bondage and forced prostitution are criminalized.

- Establishing, through legislation, administrative and criminal liability of legal persons (e.g. travel agents, migration agents, etc.) as well as natural persons.

- Making legislative provision for effective, proportional and dissuasive criminal penalties (including custodial penalties giving rise to extradition in the case of individuals).

- Making legislative provision for confiscation of the instruments and proceeds of trafficking and related offences.

- Reviewing current legal conditions and administrative controls and conditions relating to the functioning of businesses which can be used as covers for trafficking, such as marriage bureaux and escort services.

- Ensuring that protection of trafficked persons is built into anti-trafficking legislation. Including legal protection of the right of trafficked persons to reside temporarily in the destination country pending completion of judicial proceedings.

- Ensuring that legislation prevents trafficked persons from being prosecuted for the illegality of their coerced entry or residence or for the coerced activities they perform as a consequence of their status as trafficked persons.

- Making legislative provision for trafficked persons to be given information and legal assistance as well as appropriate social support

(including housing and health care) and ensuring that entitlement to such support is not discretionary but is available as a right for all persons who have been identified as trafficked.

- Ensuring that the right of trafficking victims to pursue civil claims against traffickers, including restitution and compensation for damages, is enshrined in law.

(d) Ensuring an adequate law enforcement response

46. Despite the fact that hundreds of thousands of women and girls are believed to be trafficked from, to and through this region each year, records show that only a small fraction of traffickers are reported or apprehended, let alone prosecuted. Instances of official collusion with traffickers are also not unknown. Moreover, while law enforcement would obviously benefit from the cooperation of victims and community members, many individuals are reluctant or unable to report traffickers and serve as witnesses, often fearing or mistrusting police and other officials and unable to count on any protection from the authorities. Effective anti-trafficking law enforcement requires skill, vigilance and commitment. It is also necessary to create incentives for trafficked persons and others to come forward to report traffickers.

47. Governments (and, where applicable, intergovernmental and non-governmental organizations) should consider:

- Ensuring that law enforcement authorities are provided with adequate investigative powers and techniques to enable effective investigation and prosecution.

- Establishing specialized anti-trafficking units (comprising both women and men) in order to promote specialization, competence and professionalism.

- Reviewing anti-trafficking strategies which emphasize prosecution of prostitution in order to ensure that traffickers remain the focus of law enforcement efforts.

- Sensitizing police, prosecutors, border and judicial authorities to the problem of trafficking and ensuring the provision of specialized training in identifying trafficking cases, combatting trafficking and protecting the rights of victims; and encouraging cooperation with NGOs in the development and implementation of such training.

- Establishing witness protection programmes which include the following elements: identification of a safe place in the receiving country;

rectification of immigration status; access to independent legal counsel; and identification of options for resettlement or repatriation.

- Encouraging law enforcement authorities to work closely with non-governmental agencies in order to ensure that trafficking victims receive the necessary support and assistance.

(e) Protection and support for trafficked persons

48. The trafficking cycle cannot be broken without attention to the needs of victims.

49. Governments (and, where applicable, intergovernmental and non-governmental organizations) should consider:

- Providing victims of trafficking with legal and other assistance in the course of any criminal, civil and other actions against traffickers/exploiters.

- Ensuring the safe repatriation of victims of trafficking and exploring the option of residency in the receiving country or third-country re-settlement in specific circumstances (e.g.: to prevent reprisals or in cases where re-trafficking would be likely).

- Ensuring, in cooperation with NGOs, that safe and adequate shelter is made available to victims of trafficking.

- Ensuring, in cooperation with NGOs, that victims of trafficking are given access to primary healthcare and counselling as well as legal assistance.

- Using proceeds from fines, seizure and confiscation of the profits of trafficking for victim support and assistance as well as for compensation to victims.

(f) Cooperation and coordination between countries

50. Trafficking is a regional and a global phenomenon which cannot be dealt with solely at the national level: a strengthened national response can often just mean that the operations of traffickers are moved elsewhere. There is increasing recognition of the important role which cross-border cooperation can play in breaking the trafficking cycle. Such cooperation is particularly important between countries of origin and countries of destination.

51. Governments (and, where applicable, intergovernmental and non-governmental organizations) should consider:

- Establishing bilateral agreements between governments of countries of origin and countries of destination aimed at preventing trafficking and protecting the rights of trafficked persons as well as providing for minimum work standards, model contracts, modes of repatriation etc.

- Ensuring cooperation between countries of origin and countries of destination with regard to the welfare of trafficked persons.

- Ensuring judicial cooperation between States in investigations and judicial processes relating to trafficking and similar offences; assistance in the exchange of related information; and the adoption of common prosecution methodologies.

- Making provision for direct transmission of requests for assistance between locally competent authorities in order to ensure speed and to foster the development of cooperative relations at the working level.

- Making maximum use of existing cooperative frameworks including those which have been established within the European Union, the Council of Europe and the OSCE.

- Encouraging and facilitating cooperation between NGOs in countries of origin and in destination countries. This is particularly important to ensure support and assistance to trafficked women who return home.

- Ensuring that the global instruments currently being developed to fight trafficking and migrant smuggling reflect and uphold the international human rights principles which have been developed through the United Nations.

- Elaborating regional and sub-regional treaties on trafficking - taking the Vienna Protocol as a base-line and framework.

(g) Preventing trafficking

52. Good laws, strong law enforcement and improved cooperation between States will, individually and collectively, help to prevent trafficking. However, additional prevention strategies developed on the basis of an understanding of the motivations behind trafficking are also necessary. The underlying root causes of trafficking, including poverty, discrimination, corruption and inequality between countries, should also be openly and honestly addressed. Failure to come to terms with these (admittedly more difficult) issues will prevent other anti-trafficking efforts from achieving any significant success.

At the National Level

53. Governments (and, where applicable, intergovernmental and non-governmental organizations) should consider:

- In countries of origin, reviewing review national laws, policies and practices with a view to identifying and rectifying all forms of discrimination on the basis of sex. Particular attention should be paid to discrimination in relation to economic and social rights.

- In countries of origin, ensuring that potential migrants in countries of origin are properly informed about the risks of migration and the avenues available for legal migration through, for example, information campaigns aimed at promoting awareness amongst prospective female migrants as well as amongst the general public.

- In countries of destination, examining ways and means by which they, as destination countries, could provide increased opportunity for legal, gainful and non-exploitative labour migration.

- In countries of origin, avoiding promotion of the export of migrant labour without first ensuring that the regulatory and supervisory mechanisms to protect the rights of migrant workers are in place.

- In countries of origin and destination, identifying the link between trafficking and public sector corruption and taking steps to deal with such corruption.

- In countries of destination, examining the effect on women, of repressive and/or discriminatory immigration and migrant labour laws.

At the Bilateral, Regional and International Levels

54. Governments (and, where applicable, intergovernmental and non-governmental organizations) should consider:

- Ensuring that development cooperation focuses on fighting poverty and discrimination through the adoption of a rights based approach and ensuring the integration of a gender perspective.

- Ensuring that development cooperation with countries of origin specifically addresses the issue of trafficking through, for example, promoting alternative income generating options for vulnerable women and helping governments to develop social support programmes for families at risk.

- Ensuring that development cooperation supports NGOs working in trafficking - particularly local and national programmes aimed at victim assistance and reintegration.

- Increasing support to the international human rights mechanisms which are dealing with trafficking, particularly the Human Rights Treaty Bodies and the Special Rapporteur on Violence Against Women.

CONCLUSION

55. Five years after Beijing it is necessary to confront the fact that more women and more children are being trafficked than ever before. The pool of potential victims in Central and Eastern Europe as well as in other parts of the world is growing exponentially because of increased poverty, lack of employment opportunities, violence, discrimination and inequality. Increasingly restrictive immigration policies on the part of some of the more wealthy States force individuals desperate for work into the arms of unscrupulous traders. Traffickers are able to operate with impunity because of inefficient law enforcement compounded, in some cases, by official corruption and ambivalent attitudes towards prostitution. The global sex industry, which generates billions of dollars for governments as well as for organized criminal networks, is allowed to flourish without constraint.

56. These are complex, difficult issues and there will be no quick or easy solutions. Combatting trafficking will require holistic, interdisciplinary, and long-term approaches which address each aspect of the trafficking cycle and which explicitly recognize the links between trafficking, migration and transnational organized crime. The Beijing Platform for Action placed specific emphasis on the human rights dimensions of trafficking. Human rights are not a separate consideration or an "additional" perspective. They are the common thread which should unite all anti-trafficking efforts. In July 1999 the High Commissioner for Human Rights, Mary Robinson, sent a message to States involved in drafting the first international agreement on trafficking in fifty years. The following excerpt provides a fitting conclusion to this paper.

> "Trafficking and related practices such as debt bondage, forced prostitution and forced labour are violations of the most basic of all human rights. The right to life; the right to dignity and security; the right to just and favourable conditions of work; the right to health and the right to equality. These are rights, which we all possess - irrespective of our sex, our nationality, our social status, our occupation or other difference. Trafficking is also inherently discriminatory. In the case of trafficking into the global sex industry we are talking about men from relatively prosperous countries paying for the sexual services of women and girls - and sometimes men and boys -

from less wealthy countries. This is more than a labour rights issue or an issue of unequal development. It is a basic human rights issue because it involves such a massive and harmful form of discrimination[60]."

NOTES:

[1] Beijing Platform for Action, §122.

[2] *Ibid.* Strategic Objective D.3.

[3] *Ibid*, §130.

[4] *Ibid*, §230 (n).

[5] Revised draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, UN Doc. A/AC.254/4/Add.3/Rev.3 (1999).

[6] See further notes 54-59, 62 *infra* and accompanying text.

[7] St Petersburg Declaration of the OSCE Parliamentary Assembly, 10 July 1999.

[8] Harold, Hongju Koh, Assistant Secretary of State for Democracy, Human Rights and Labour, Testimony before the House Committee on International Relations, Washington D.C., 14 September 1999.

[9] General Assembly resolution 49/166 of 23 December 1994.

[10] Draft Protocol against the Smuggling of Migrants by Land, Air and Sea supplementing the United Nations Convention against Transnational Organized Crime, UN Doc. A/AC.254/4/Add.1/Rev.2 (1999).

[11] *Ibid*, Article 2. 1. (a).

[12] Revised draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, Article 2 (2) Option 1 as set out in UN Doc. A/AC.254/4/Add.3/Rev.3 (1999).

[13] International Organization for Migration (IOM), *Trafficking in Women: A Review of Statistical data in Europe*, paper presented to the Interpol International Conference on Trafficking in Women, Vienna, October 1998.

[14] The information in this and the following paragraphs is compiled largely from reports issued by the Geneva-based International Organization for

Migration. A great deal of other information is available, particularly from non-governmental organizations. However, with some exceptions much of this information, whilst immensely valuable in many respects, is anecdotal and difficult to verify and has therefore not been included.

[14] See IOM, papers and statements from the *IOM Regional Seminar on Irregular Migration and Migrant Trafficking in East and South-East Asia* (IOM December, 1996, Manila); and reports and statements from the *Third IOM Regional Seminar on Irregular Migration and Migrant Trafficking in East and South-East Asia:* (IOM, September, 1998, Bangkok, Philippines).

[15] *Trafficking in Human Beings in Sub-Saharan Africa: The case of Nigeria*, paper presented on behalf of the IOM to the International Conference: Frontiers of Crime: Trafficking in Human Beings, A New Form of Slavery, Verona, Italy, 22 October 1999. See also, IOM, *Trader in Prostitutes sentenced for nine years*, Trafficking in Migrants, Quarterly Bulletin (IOM, 17/1998).

[16] IOM, *Trafficking in Women to Austria for Sexual Exploitation*, 1996 (Hereinafter: IOM-Austria Report). See also, IOM, *Trafficking in Women from the Dominican Republic for Sexual Exploitation*, (IOM; June, 1996).

[17] See IOM, *Information campaign Against Trafficking of Women from Ukraine*, (research report, IOM, July, 1998). See also Israel Women's Network, *Trafficking in Women to Israel and Forced Prostitution*, 17 REFUGE: Canada's Periodical on Refugees, November 1998.

[18] IOM-Austria Report, *supra* and IOM/International Centre for Migration Policy Development: *Trafficking in Women from Central and Eastern Europe: Focus on Germany*, in Migration in Central Eastern Europe, 1999 Review, (1999)

[19] See IOM, *Migrant Trafficking through the Baltic States and Neighbouring Countries*, (report of an IOM seminar, September 1998); see also, Mees et al. *Multi-disciplinary research on the Phenomenon of Trafficking in Human Beings from and International and National Perspective: A Pilot Study with Poland and Hungary*, University of Ghent, Belgium, 1998 [hereinafter Poland-Hungary Study]

[20] See IOM, *Prevention of Trafficking in Women in Hungary*, (IOM; Budapest, July 1999). See also, Poland-Hungary Study, *supra*.

[21] Information provided by the Council of Europe. See also lead article in IOM Quarterly Bulletin 7/99 (1999), *Traffickers Make Money through Humanitarian Crises*.

[22] International Migration Forum: *A Tentative Summary*, cited in UN Doc. E/CN.15/1999/CRP.2 (1999). At p. 5.

[24] International Centre for Migration Policy Development, The Relationship Between Organized Crime and Trafficking in Aliens, (June 1999).

[25] Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others.

[26] Beijing Platform for Action, §122.

[27] Convention on the Elimination of All Forms of Discrimination against Women, Art. 6.

[28] Convention on the Rights of the Child, Art. 35.

[29] Convention on the Rights of the Child, Art. 34.

[30] ILO Convention No. 105 (adopted 25 June 1957 at the 40th session of the ILO General Congress, entered into force 17 January 1959).

[31] 993 UNTS 171.

[32] 993 UNTS 3

[33] EUROPE TS, No. 5.1

[34] Basic Documents Pertaining to Human Rights in the Inter-American System, OEA at 25-55 (1988).

[35] Debt bondage is defined in Article 1(a) of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery as being "the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined".

[36] Specific reference to trafficking and related exploitation was made in a number of concluding observations/comments adopted by those bodies during the last 12 months, including those adopted by the HRC on Japan, by the CRC on Japan, Thailand, Fiji and Maldives, by CEDAW on Indonesia and New Zealand and by CESCR on Sri Lanka (about sexual exploitation of children). With reference to Germany, CESCR members also expressed their concern at so-called "marriage trafficking" in Europe.

[37] The Programme is set out in the *Report of the Working Group on Contemporary Forms of Slavery on its twentieth session, Programme of Action for the Prevention of Trafficking in Persons and the Exploitation of the Prostitution of Others*, UN Doc. E/CN.4/Sub.2/1993/30 (1993).

[38] *Preliminary Report Submitted by the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms Radhika Coomaraswarmy*, UN Doc. E/CN.4/1995/42 (1994).

[39] *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Ms Radhika Coomaraswarmy*, UN Doc. E/CN.4/1997/47 (1997).

[40] *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Ms Radhika Coomaraswarmy, Report of a mission to Poland*, UN Doc. E/CN.4/1997/47/Add.1 (1996).

[41] The most recent resolution of the General Assembly on the subject of trafficking is Resolution 53/111 (1998).

[42] The most recent report of the Secretary-General to the General Assembly on the subject of trafficking is contained in UN Doc. A/53/409 (1998).

[43] Revised draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, UN Doc. A/AC.254/4/Add.3/Rev.3 (1999)

[44] Draft Protocol against the Smuggling of Migrants by Land, Air and Sea supplementing the United Nations Convention Against Transnational Organized Crime, UN Doc. A/AC.254/4/Add.1/Rev.2 (1999)

[45] Draft United Nations Convention Against Transnational Organized Crime, UN Doc. A/AC.254/4/Rev.4 (1999).

[46] Recommendations on Trade in Human Beings - Council Press Release 10550/93 of 29-30 November 1993 at Annex 2.

[47] Report on Trafficking in Human Beings of the Committee on Civil Liberties and Internal Affairs, 14 December 1995, A4-0326/95.

[48] Resolution on Trafficking in Human Beings of the European Parliament, adopted 18 January 1996, OJ No C 32, 5.2. 1996, p. 88.

[49] CDEG (96) 6 rev. 10 May 1996

[50] *See* European Commission, Report of the Conference on Trafficking in Women, 10-11 June 1996, Vienna. CAB./183/96/ENG

[51] Commission of the European Communities, Communication from the Commission to the Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation, COM (96) 567 final.

[52] Recommendations of the Council of the European Union on combatting trafficking in human beings, adopted on 29 and 30 November 1993.

[53] The Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation, The Hague, 27 April 1997.

[54] Communication to the Council and the European Parliament for Further Actions in the Fight Against Trafficking in Women, COM (1998) 726 final.

[55] Recommendation 1325 (1997) adopted by the Assembly on 23 April 1997.

[56] Moscow document 1991, as cited in St Petersburg Declaration of the OSCE Parliamentary Assembly, 10 July 1999.

[57] Petersburg Declaration of the OSCE Parliamentary Assembly, 10 July 1999.

[58] Communication to the Council and the European Parliament for Further Actions in the Fight Against Trafficking in Women, COM (1998) 726 final at p. 12. This communication also contains information on the Commission's various anti-trafficking activities and programmes.

[59] These recommendations are drawn from a range of conference papers, policy documents and draft legal texts including the draft Vienna Protocol, EU, OSCE and Council of Europe documents cited above.

[60] Message from the High Commissioner for Human Rights, Mary Robinson to the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, Fourth session, Vienna, 28 June-9 July 1999.